

2011 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1037

2011 HOUSE STANDING COMMITTEE MINUTES

House Industry, Business and Labor Committee
Peace Garden Room, State Capitol

HB 1037
January 5, 2011
Job Number 12587

☐ Conference Committee

Committee Clerk Signature

Ellen Letang

Explanation or reason for introduction of bill/resolution:

Safety & performance audits of work programs of Roughrider Industries.

Minutes:

||

Chairman Keiser: Opens the hearing on HB 1037.

John Bjornson~Legislative Council Staff: Introduced HB 1037 and I'm not for or against, our policy is to provide basic information. WSI is required to report to an interim committee, the safety and performance of the Roughrider Industries work programs. WSI has heard from the last 3 or 4 interims and was presented a copy of the audit and the audit has no recommendations. The interim committee was informed last session, that Roughrider Industries work programs have had no reported injuries. The insurance program has been in place for the last 10-15 years and has worked very well from what the committee was told. What this bill draft recommends is to continue doing the audits, but only report to the committee if the audit has a recommendation. It's a very simple change in the law that doesn't require any additional work on behalf of WSI, it doesn't take away any of the requirements that they be audited, it just alleviates some of the burden coming to an interim all the time saying "we don't have any recommendations".

Representative N Johnson: I noticed that biennial has been added, is that the way it's been traditionally done?

Bjornson: Yes.

Chairman Keiser: Anyone else here to address WSI?

Anne Green~Staff Counsel WSI: See attachment

Representative Ruby: I don't see where the word audited is removed.

Green: It is; if you turn to the last page of my testimony, I proposed an amendment that would remove the word "audit".

Vice Chairman Kasper: Can you tell us the last time Roughrider Industries had any claim with WSI?

Green: To date, we have had no claims activity from Roughrider Industries since 2006, before that we do not have record of claims activity.

Representative Ruby: If Roughrider Industries has to reimburse the full amount of any claim, why does it have to go through WSI?

Green: As a general manner, as I understand the program's operation, treatment of injured persons are treated internally through the Department of Corrections. However if a serious claim would to present itself, under the protections provided by WSI, that injured worker might be entitled to benefits in addition to the medical care that they would receive within the institution. For example, they might be entitled to disability benefits once they left the penal system.

Representative Ruby: You are the administrator?

Green: That's correct.

Chairman Keiser: That's not quite correct. When this legislation came into effect in 1997, in 1993 and 1995, Roughrider Industries appeared before this committee repeatedly making a request that workers compensation be extended to prisoners employed because they are employed. Representative John Dorsal and I fought it vigorously. We were convinced that because of the permanent and partial impairment issue, that there could be a high incidence of intentional injuries that could possibly occur. We came up with a solution which was to put them under WSI, which they have to do under Federal Law, to be covered because they are employees of the company that works at Roughrider. The way we did it was to set up a separate part of WSI which made it a self insured fund within Roughrider. Contrary our expectations, I was 100% wrong. Prisoners are not so stupid that they would go out intentionally injure themselves as we feared. In fact, not only are they smart, but they are very safe. From the inception, there has not been one claim, so the question is why we are continuing to do audits and report them unless there is an injury. This is what the bill is about.

Representative Amerman: I have a question between the word audit and review. The word audit suggests a more thorough type of going over a record and where review, they sit in an office and review. Could you give me an idea the audit is now conducted of the Roughrider Industries?

Green: Currently, the audit process is conducted with the same thoroughness that any audit is handled by the internal audit division of WSI. It is a complete review of the performance of Roughrider program, it is also a complete review of the safety mechanisms, procedures and policies conducted by one of our loss prevention specialist within WSI and then routed through our internal audit division. It is an extensive review. The proposed amendment came before you as a result of a suggestion of the state audit office. Their suggestion was that the word "audit" is a term of art and is typically conducted in their view by a CPA. As a consequence, they suggested changing the word and I can assure you that the changing of that word will not affect the thoroughness or depth of the audit as it is conducted.

Representative Frantsvog: I have a question on the last paragraph of page, one of your testimony. It states "and a report to the legislative council will only be generated to legislative council if WSI made recommendations for the program". Is there something that says that the report has to be made within 30 days or if there is no report, that there has to be a notice within a certain period of time? When do they know if there is a report or there is not going to be a report?

Green: The statute currently requires that review be conducted every 2 years. If there are recommendations that come out of that audit, the statute will still require that the recommendations be presented to the interim legislative council 30 days before the start of any legislative session.

Chairman Keiser: The fiscal note, will you review it?

Green: As the program is risk free, dollars for claim for being reimbursed at 100%, there is no fiscal impact.

Chairman Keiser: Anyone else here to testify in support of HB1037, opposition, neutral?

Dave Kemnitz~President of the AFLCIO: On behave of the business community, my question back then was "why doesn't Roughrider Industries paying the same taxes and premiums that you and I or Workers Comp, as the private sector"? Because Roughrider Industries was expanding in many areas, some of the private sectors felt that this was direct competition subsidized by the state in a way that they couldn't compete with. That was one of the reasons the impetus we find in supporting to at least pay something. Does OSHA do inspections of Roughrider Industries? My concern now turns to the workers, if there isn't an annual audit, how do the workers know that they are in a safe environment? They need to know that they are safe and clean. So there are a couple of things that changes to 2 years instead of annual. Training is essential, safety is a concern and every injury should be recorded, if not recorded, it's not compensable. I don't know if biannual is the answer, why change?

Vice Chairman Kasper: Dave, if you look on lines 12 & 13 on the bill, the study is submitted to the legislative council no later than 30 days before the commencement of each regular session of the legislative assembly that is current law. So the report is submitted currently every two years, am I incorrect.

Kemnetz: I would read that the same, my emphasis is on the inspection and walk through. The report to you and the legislative council is different than my perception of what they do now.

Chairman Keiser: Closes the hearing on HB 1037. What are the wishes of the committee?

Representative Vigesaa: I move the amendment.

Representative N Johnson: Second.

Chairman Keiser: Further discussion on the amendment? It is my understanding that the state auditors department made the request because review is actually a more comprehensive analysis than just a fiscal audit or some other performance audit. A review included everything. All those in favor in adopting the amendment say aye, (all ayes), nay (none). Amendments are on the bill. We have HB 1037 before us as amended, what are the wishes of the committee?

Vice Chairman Kasper: I'm move a do pass as amended.

Representative Ruby: Second.

Chairman Keiser: Any discussion?

Representative Ruby: I'm going to support this. Explains why he supports the bill.

Chairman Keiser: I will set up a visit with Roughrider Industries for anyone who is interested. It's very educational. RR Industry is only allowed engage in manufacturer and production things that other companies are not doing too much of with the exception of furniture. We try to keep control of what they are doing and how much competition they are presenting. The other side that Dave Keminetz's comment, if everyone were self insured, I will guarantee that we would be even more safe, than what we are. You own 100% liability. Insurance by nature is to spread risk, the pool pays for it. When you self insure, you will take a strong interest in safety.

Representative Ruby: When Roughrider would reimburse WSI for the benefits paid out, does that also reimburse WSI for the administrative costs?

Chairman Keiser: I don't if they are assess them administrative fee on an annual basis. They do not, that's the one unfair fact that's not built in. Further discussion?

Roll Call on HB1037 as amended with 14 yeas, 0 nays, 0 absent and Representative Vigasaa is the carrier.

FISCAL NOTE

Requested by Legislative Council
01/07/2011

Amendment to: HB 1037

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The engrossed bill requires a safety and performance review of Roughrider Industries to be conducted by WSI every two years instead of every year and requires the organization to report to Legislative Council if recommendations are made.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
2011 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: Engrossed HB 1037

BILL DESCRIPTION: Safety and Performance Review of Roughrider Industries

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The engrossed bill requires a safety and performance review of Roughrider Industries to be conducted by WSI every two years instead of every year and requires the organization to report to Legislative Council if recommendations are made.

FISCAL IMPACT: No fiscal impact is anticipated.

DATE: January 7, 2011

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Halvorson	Agency:	WSI
Phone Number:	328-6016	Date Prepared:	01/07/2011

FISCAL NOTE

Requested by Legislative Council
12/15/2010

Bill/Resolution No.: HB 1037

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The proposed legislation requires a safety and performance audit of Roughrider Industries to be conducted by WSI every two years instead of every year and requires the organization to report to Legislative Council if audit recommendations are made.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
2011 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL NO: HB 1037

BILL DESCRIPTION: Safety and Performance Audit of Roughrider Industries

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation requires a safety and performance audit of Roughrider Industries to be conducted by WSI every two years instead of every year and requires the organization to report to Legislative Council if audit recommendations are made.

FISCAL IMPACT: No fiscal impact is anticipated.

DATE: December 15, 2010

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	John Halvorson	Agency:	WSI
Phone Number:	328-6016	Date Prepared:	12/22/2010

January 5, 2011

VK
1/6/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1037

Page 1, line 6, overstrike "**audit**" and insert immediately thereafter "review"

Page 1, line 7, overstrike "audit" and insert immediately thereafter "review"

Page 1, line 8, overstrike "audit" and insert immediately thereafter "review"

Page 1, line 10, replace "audit" with "review"

Renumber accordingly

Date: Jan 5 - 2011

Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1037

House House Industry, Business and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0256.02001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep Vigesaa Seconded By Rep N Johnson

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser			Representative Amerman		
Vice Chairman Kasper			Representative Boe		
Representative Clark			Representative Gruchalla		
Representative Frantsvog			Representative M Nelson		
Representative N Johnson					
Representative Kreun					
Representative Nathe					
Representative Ruby					
Representative Sukut					
Representative Vigesaa					

Total (Yes) 14 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice vote taken
Motion Passed

Date: Jan 5 - 2011Roll Call Vote # 22011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1037House House Industry, Business and Labor Committee☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment☐ Rerefer to Appropriations ☐ ReconsiderMotion Made By V Chairman Kasper Seconded By Rep Ruby

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	x		Representative Amerman	x	
Vice Chairman Kasper	x		Representative Boe	x	
Representative Clark	x		Representative Gruchalla	x	
Representative Frantvog	x		Representative M Nelson	x	
Representative N Johnson	x				
Representative Kreun	x				
Representative Nathe	x				
Representative Ruby	x				
Representative Sukut	x				
Representative Vigesaa	x				

Total (Yes) 14 No 0Absent 0Floor Assignment Rep Vigesaa

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1037: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1037 was placed
on the Sixth order on the calendar.

Page 1, line 6, overstrike "**audit**" and insert immediately thereafter "**review**"

Page 1, line 7, overstrike "audit" and insert immediately thereafter "**review**"

Page 1, line 8, overstrike "audit" and insert immediately thereafter "**review**"

Page 1, line 10, replace "**audit**" with "**review**"

Renumber accordingly

2011 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1037

2011 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee
Roosevelt Park Room, State Capitol

HB 1037
February 16, 2011
Job Number 14619

☐ Conference Committee

Committee Clerk Signature

Eva Leibel

Explanation or reason for introduction of bill/resolution:

Relating to the safety and performance audit of work programs of roughrider industries

Minutes:

Testimony Attached

Chairman Klein: Opened the hearing on House Bill 1037.

Anne Green, Staff Counsel, Workforce Safety and Insurance: Testimony Attached.

Senator Larsen: Asked what they construct.

Anne: They build furniture; some of the furniture in the State Capitol was built by roughrider industries.

Chairman Klein: Said the emphasis for roughrider industries is to keep the prisoners busy. He stated that they have not had a lot of injuries from working at roughrider industries.

Anne: That is correct. In fact the history goes back to 1997 and they don't have a claim on file with WSI.

Chairman Klein: So we are asking why create a report annually, we will just wait biannually?

Anne: Stated that the safety review and safety audit, the performance evaluation will continue to happen with roughrider industries, that will not change, it is still mandated by the statute. The only reason a report would be generated and presented to the interim Legislative IBL committee is if that performance evaluation or safety audit resulted in some sort of recommendation. If WSI found there were safety violations or hazardous working conditions. If that was the case the report would be sent to that interim committee for review.

Chairman Klein: Closed the hearing.

Senator Laffen: Moved a do pass.

Senator Andrist: Seconded the motion.

Roll Call Vote: Yes-7 No-0

Senator Laffen to carry the bill

Date:

BILL/RESOLUTION NO.

Senate Industry, Business and Labor

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken:

☒ Do Pass

☐ Do Not Pass

☐ Amended☐ Adopt Amendment☐☐ Reconsider

Motion Made By

Seconded By

[illegible]

Total (Yes)

No

Absent

Floor Assignment

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1037, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1037 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1037

2011 House Bill No. 1037
Testimony before the House Industry, Business and Labor Committee
Presented by: Anne Jorgenson Green, Staff Counsel
Workforce Safety and Insurance
January 5, 2011

Mr. Chairman and Members of the Committee:

My name is Anne Jorgenson Green, Staff Counsel, with Workforce Safety and Insurance (WSI). I am here to testify in support of HB 1037, a proposal submitted at the request of the Interim Legislative Industry, Business, and Labor Committee.

Roughrider Industries provides a prison work program for individuals incarcerated in the North Dakota Department of Corrections system. Participants in the program are covered by workers compensation insurance for injuries arising out of their work activities. By law, Roughrider Industries must reimburse WSI for all costs associated with a claim in excess of their paid premium, making the program essentially risk free to WSI.

Workforce Safety and Insurance is required by statute to perform both a safety review and a performance review of the program. The Roughrider Industries program has an excellent safety history and no significant claims activity. With few exceptions since the program's inception in 1997, WSI's audits do not result in recommendations and the interim legislative report has been rather uneventful.

As a consequence, HB 1037 was created by the Interim Legislative Industry Business and Labor (IBL) Committee clarifying that a safety and performance review need only be conducted every other year, and a report to the Legislative Council would only be generated to Legislative Council if WSI made recommendations for the program. It is before you today for consideration.

One housekeeping matter remains and is reflected by a proposed amendment attached to my testimony. The use of the term "audit" throughout the bill is replaced by the word "review" as it more accurately reflects the evaluation being conducted. This proposed amendment is for clarification only and has no substantive intent.

WSI requests your favorable consideration of House Bill 1037. I am happy to answer any questions you may have.

2011 Engrossed House Bill No. 1037
Testimony before the Senate Industry, Business and Labor Committee
Presented by: Anne Jorgenson Green, Staff Counsel
Workforce Safety and Insurance
February 16, 2011

Mr. Chairman and Members of the Committee:

My name is Anne Jorgenson Green, Staff Counsel, with Workforce Safety and Insurance (WSI). I am here to testify in support of Engrossed HB 1037, a proposal submitted at the request of the Interim Legislative Industry, Business, and Labor Committee.

Roughrider Industries provides a prison work program for individuals incarcerated in the North Dakota Department of Corrections system. Participants in the program are covered by workers compensation insurance for injuries arising out of their work activities. By law, Roughrider Industries must reimburse WSI for all costs associated with a claim in excess of their paid premium, making the program essentially risk free to WSI.

WSI is required by statute to perform both a safety review and a performance review of the program. The Roughrider Industries program has an excellent safety history and no significant claims activity. With few exceptions since the program's inception in 1997, WSI's audits do not result in recommendations and the interim legislative report has been rather uneventful.

As a consequence, HB 1037 was introduced by the Interim Legislative Industry, Business, and Labor (IBL) Committee clarifying that a safety and performance review need only be conducted every other year, and a report to the Legislative Council would only be generated to Legislative Council if WSI made recommendations for the program. It is before you today for your consideration.

WSI requests your favorable consideration of Engrossed House Bill 1037. I am happy to answer any questions you may have.